

**CERTIFICATE OF MAILING**  
37 C.F.R. § 1.8

I hereby certify that this correspondence is being deposited with the U.S. Postal Service with sufficient postage as First Class Mail in an envelope addressed to: Assistant Commissioner for Patents, Washington, DC 20231, on the date below:

4/26/02

Date

Fani Malikouzakis

Name: Fani Malikouzakis

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

Applicant(s) : Jean-Guy CHOUINARD et al.  
Reissue Appl. No 10/079,034  
Filing Date: February 19, 2002  
Patent No. : 6,028,414  
Issued : February 22, 2000  
For: : FUEL CELL STAND-BY ENERGY SUPPLY SYSTEM

April 26, 2002

Commissioner of Patents  
and Trademarks  
Washington, D.C. 20231

**PETITION UNDER 37 C.F.R. §§ 1.181 AND 1.183**

Sir:

Applicants petition the Commissioner to withdraw the Notice of Incomplete Reissue Application ("Notice") mailed in the referenced matter on April 17, 2002 (attached, at Tab A). This petition is submitted for the reasons outlined below:

On February 19, 2002, a reissue application concerning U.S. Patent No. 6,028,414 was submitted to the United States Patent Office. This application contained the following documents:

1. Reissue Patent Application Transmittal Form;

2. Reissue Application Fee Transmittal Form;
3. Specification and Claims (Ribboned Original Letters Patent No. 6,028,414);
4. Reissue Oath/Declaration;
5. Reissue Application: Consent of Assignee; Statement of Non-Assignment;
6. Statement Under 37 C.F.R. § 3.73(b);
7. Information Disclosure Statement and copies of IDS Citations;
8. Preliminary Amendment; and
9. Check No. 010031 for \$370.00 (Reissue Filing Fee).

The entire submission other than the ribboned copy of the original Letters Patent, is attached hereto at Tab B. The Affidavit of the attorney submitting these documents to the Patent Office is attached hereto at Tab C.

The Notice indicates that (1) the specification is missing; (2) the specification does not include at least one claim; (3) the application was deposited without drawings; and (4) the oath/declaration is missing. All of these items, however, were *present* in the February 19, 2002 submission. As noted above, and in the Affidavit, the February 19, 2002 submission *did* include a specification in the form of U.S. Patent No. 6,028,414 (see item number 3 above and on postcard copy at Tab B). Further, review of that patent shows that it includes both claims and drawings. Finally, the February 19, 2002 submission did include a reissue oath/declaration (see item number 4, Tab B).

It is believed that applicants have complied with all of the requirements of 37 C.F.R. § 1.173 entitled "Reissue specification, drawings, and amendments". Applicants are thus at a loss to explain why the Notice of Incomplete Reissue Application was issued based on applicants' submission and, therefore believe that the "missing" papers were lost or misplaced after the reissue application was placed in the U.S. mail by applicants.


Alternatively, if the reissue application was submitted not in accordance with the requirements of 37 C.F.R. § 1.173 (applicants do not believe this to be the case), applicants believe that this reissue application should nevertheless be accorded the filing date of February 19, 2002, in that the application was in substantial compliance with this provision. Therefore, if any formalities were, without applicants' knowledge,

unintentionally not addressed in the original submission, it is requested that the Commissioner waive any such remaining formal requirements and accord the referenced application the filing date of February 19, 2002.

It is believed that a petition fee of \$130.00 is due with this petition. The Commissioner is hereby authorized to charge the Deposit Account No. 500624.

Respectfully submitted,

FULBRIGHT & JAWORSKI L.L.P.

By   
David Rubin  
Reg. No. 40,314

666 Fifth Avenue  
New York, NY 10103  
Enclosures



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Washington, D.C. 20231

**AFFIDAVIT OF DAVID RUBIN**

Sir:

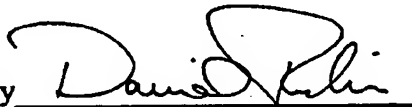
1. I, David Rubin, am an attorney licensed to practice before the United States Patent and Trademark Office. My registration number is 40,314.
2. On February 19, 2002, I submitted the following items to the United States Patent and Trademark Office:
  1. Reissue Patent Application Transmittal Form;
  2. Reissue Application Fee Transmittal Form;
  3. Specification and Claims (Ribbioned Original Letters Patent No. 6,028,414);
  4. Reissue Oath/Declaration;
  5. Reissue Application: Consent of Assignee; Statement of Non-Assignment;

6. Statement Under 37 C.F.R. § 3.73(b);
  7. Information Disclosure Statement and copies of IDS Citations;
  8. Preliminary Amendment; and
  9. Check No. 010031 for \$370.00 (Reissue Filing Fee).
3. The above listed items were placed in an express mail envelope bearing, Express Mail label EL 829643683 US and were posted on February 12, 2002.
4. I believe that the referenced reissue application was submitted properly and in accordance with 37 C.F.R. § 1.173 and all other relevant provisions.

Respectfully submitted,

FULBRIGHT & JAWORSKI L.L.P.

By



David Rubin  
Reg. No. 40,314

666 Fifth Avenue  
New York, NY 10103  
Enclosures